

USDC SDNY DOCUMENT ELECTRONICALLY FILED DOC #: _____ DATE FILED: 4/3/2024

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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FREDDY PENA,	:	
	:	
Plaintiff,	:	1:24-cv-02232-GHW
	:	
-v-	:	<u>ORDER</u>
	:	
MACY'S RETAIL HOLDINGS, LLC,	:	
	:	
Defendant.	:	
	:	
-----	X	
GREGORY H. WOODS, United States District Judge:		


On March 27, 2024, the Court ordered Defendant to show cause why this action should not be remanded for lack of subject matter jurisdiction, as Defendant had failed to establish its citizenship for the purposes of determining whether the Court has diversity jurisdiction over this matter. Dkt. No. 5. On April 3, 2024, Defendant submitted a letter noting that “new information has become available” and that it believes “there is no longer diversity among the parties.” Dkt. No. 6. Defendant further stated, “We understand this case will need to be remanded back to the New York Supreme Court” *Id.*

“If at any time before final judgment it appears that the district court lacks subject matter jurisdiction, the case shall be remanded.” 28 U.S.C. § 1447(c). Defendants have “the burden of establishing that removal is proper.” *Abbo-Bardley v. City of Niagara Falls*, 73 F.4th 143, 148 (2d Cir. 2023). Given Defendant’s representations above, Defendant has failed to satisfy its burden of establishing that removal was proper and that this Court has jurisdiction over this matter. Accordingly, this case is remanded to the New York Supreme Court for lack of subject matter jurisdiction.

The Clerk of Court is directed to remand this case to the Supreme Court of the State of New York, County of New York, without delay.

SO ORDERED.

Dated: April 3, 2024
New York, New York



GREGORY H. WOODS
United States District Judge